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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Carlton Errol Godwin,

10 Petitioner,

11 v.

12 R Allen Bock, et al.,

13 Respondents.
14

No. CV-13-08078-PCT-JAT

ORDER

15 Petitioner filed his Petition for Writ of Habeas Corpus on April 5, 2013. On
16 November 7, 2013, the state filed a limited answer. On December 12, 2013, the
17 Magistrate Judge extended the time for Petitioner to file his Reply to the state's answer to
18 January 14, 2014.¹

19 Thereafter, the Magistrate Judge granted Petitioner extensions of time to file his
20 Reply to the state's limited answer through March 27, 2015. *See* Doc. 40. Having given
21 Petitioner over a year of extensions, the Magistrate Judge cautioned Petitioner that there
22 would be no further extension of this deadline and advised Petitioner that his Reply had
23 to be docketed by March 27, 2015. *Id.*

24 As of March 27, 2015, this Court had not received a Reply from Petitioner.
25 Accordingly, on March 30, 2015, the Magistrate Judge issued a Report and
26 Recommendation and recommended that the Petition be denied by this Court.

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28 ¹ On November 18, 2013, Petitioner filed a document entitled Reply/Traverse. While that document is called a traverse, it does not appear to be a reply to the state's answer, but instead a reply in support of Petitioner's motion at Doc. 13.

1 On that same day, but later in the day, the Clerk's office docketed Petitioner's
2 Reply/Traverse to the state's limited answer. Thereafter, on April 13, 2015, Petitioner
3 filed a request to reconsider the Report and Recommendation in light of his
4 Reply/Traverse. Doc. 43. Petitioner argues that his Reply/Traverse is timely under the
5 mailbox rule. *Id.* Petitioner has not timely filed objections to the Report and
6 Recommendation.

7 Inmates get the benefit of the mailbox rule, *i.e.* that an inmate's pleading is
8 deemed to be filed the day he hands it to the prison official for mailing. *Houston v. Lack*,
9 487 U.S. 266 (1988); *U.S. v. Garcia*, 210 F.3d 1058, 1061 n. 5 (9th Cir. 2000). In this
10 case, however, Petitioner is not in custody. Therefore, Petitioner is not entitled to the
11 benefit of the mailbox rule and his Reply/Traverse is untimely. As a result, the Court
12 finds no basis for his motion for reconsideration and it will be denied.

13 Based on the foregoing,

14 **IT IS ORDERED** that the motion for reconsideration (Doc. 43) is denied.

15 **IT IS FURTHER ORDERED** that Petitioner has until June 25, 2015, to **file** his
16 objections to the Report and Recommendation, if any, as outlined in Doc. 41 at 12.

17 Dated this 3rd day of June, 2015.

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22 James A. Teilborg
23 Senior United States District Judge
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